

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff/Counter Defendant,

v.

KING MOUNTAIN TOBACCO CO.,
INC.,

Defendant.

NO: CV-12-3089-RMP

ORDER GRANTING UNITED
STATES' MOTION FOR SUMMARY
JUDGMENT

BEFORE THE COURT is a motion for summary judgment filed by Defendant the United States, ECF No. 48. The United States filed a similar motion for summary judgment in the companion case before this Court, *King Mountain Tobacco Co. v. Alcohol and Tobacco Tax and Trade Bureau*, Case No. 11-3038, at ECF No. 134. The Court heard oral argument on the motions in both cases. John Adams Moore, Jr., and Randolph Barnhouse represented the Plaintiff, the Confederated Tribes and Bands of the Yakama Indian Nation. W. Carl Hankla, Trial Attorney for the Tax Division of the United States Department of Justice,

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JUDGMENT ~ 1

1 represented the United States. The Court has reviewed the briefing and all
2 supporting documents presented in this case and in Case No. 11-3038 and is fully
3 informed.

4 The issues presented in the United States' motion for summary judgment in
5 this case are essentially identical to the issues presented in the United States'
6 motion for summary judgment in Case No. 11-3038. The Court has entered an
7 order granting the United States' motion for summary judgment in Case No. 11-
8 3038. Case No. 11-3038 at ECF No. 149. The Court incorporates by reference its
9 Order Granting Summary Judgment for an explanation of its ruling on the United
10 States' motion for summary judgment in the instant case.

11 The only relevant distinction between the two cases is that in the instant
12 case, the United States initially had asserted that it was entitled to a judgment of
13 \$60,553,309.67, as of July 31, 2013, for delinquent federal tobacco excise taxes
14 owed by King Mountain. ECF No. 48. However, the Court granted a stay of
15 consideration on the issue of the specific amount of tax owed until after discovery
16 has been completed. ECF No. 53. The United States has amended its prayer for
17 relief for an order determining that King Mountain "is liable for the taxes at issue
18 in an amount to be determined." ECF No. 56, at 2.

1 The Court finds that King Mountain is liable for federal tobacco excise taxes
2 pursuant to the Court's ruling in ECF No. 149 in Case No. 11-3038. The amount
3 of the owed excises taxes will be determined at a future date.

4 According, **IT IS HEREBY ORDERED** that the United States' Motion for
5 Summary Judgment, **ECF No. 48**, is hereby **GRANTED**.

6 The District Court Clerk is directed to enter this Order and to provide copies
7 to counsel. Judgment shall be entered at a later date, and **this case remains open**.

8 **DATED** this 24th day of January 2014.

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10 *s/ Rosanna Malouf Peterson*
11 ROSANNA MALOUF PETERSON
12 Chief United States District Court Judge
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